

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION

WASEEM DAKER,

Plaintiff

VS.

JAMES DONALD, Commissioner, *et al.*,

Defendants

**NO. 5: 04-CV-337 (DF)**

**PROCEEDINGS UNDER 42 U.S.C. § 1983  
BEFORE THE U. S. MAGISTRATE JUDGE**

**RECOMMENDATION**

On October 4, 2004, plaintiff filed the above-captioned complaint. Thereafter, the undersigned recommended that all defendants be dismissed except for Donald, Wetherington, Hall, Williams, and Sykes. Tab #5. Over the plaintiff's objections, the district judge adopted the recommendation of the undersigned. Tabs #10 and #15. The plaintiff has now filed a MOTION TO AMEND his complaint. Tab #11. In this motion, plaintiff seeks to have all defendants who were dismissed from the present suit reinstated and seeks to add claims against Brenda Murrell, Arthur R. Gordon, and Christopher Suber. *Id.* After careful consideration, the undersigned recommends that plaintiff's motion be **DENIED**.

In his original complaint, plaintiff sued for a violation of the Georgia Department of Corrections smoking *policy*. However, in his amended complaint, plaintiff is claiming that the defendants violated his Due Process rights by denying the *grievances* his filed for violation of the no smoking policy. Since these news claims to do not relate directly to plaintiff's attack on the institutional *policy*, but instead relate to the alleged denial of *grievances*, the undersigned finds that such claims are more appropriate for consideration in a new lawsuit.

Accordingly, IT IS RECOMMENDED that plaintiff's MOTION TO AMEND (Tab #11) be **DENIED**, *without prejudice* to his right to file a new action. Pursuant to 28 U.S.C. §636(b)(1) the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom the case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

The Clerk is directed to serve the plaintiff with a copy of this order by mailing it to him at the LAST ADDRESS provided by him.

SO RECOMMENDED, this 29<sup>TH</sup> day of APRIL, 2005.



A handwritten signature in blue ink, reading "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.  
UNITED STATES MAGISTRATE JUDGE